

CARL LEVIN, MICHIGAN
DANIEL K. AKAKA, HAWAII
THOMAS R. CARPER, DELAWARE
MARK L. PRYOR, ARKANSAS
MARY L. LANDRIEU, LOUISIANA
CLAIRE McCASKILL, MISSOURI
JON TESTER, MONTANA
MARK BEGICH, ALASKA

SUSAN M. COLLINS, MAINE
TOM COBURN, OKLAHOMA
SCOTT P. BROWN, MASSACHUSETTS
JOHN MCCAIN, ARIZONA
RON JOHNSON, WISCONSIN
ROB PORTMAN, OHIO
RAND PAUL, KENTUCKY
JERRY MORAN, KANSAS

MICHAEL L. ALEXANDER, STAFF DIRECTOR
NICHOLAS A. ROSSI, MINORITY STAFF DIRECTOR

United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510-6250

July 25, 2011

Postal Regulatory Commission
Submitted 7/25/2011 12:06:57 PM
Filing ID: 73955
Accepted 7/25/2011

Sent via Online Filing at www.prc.gov

Ms. Shoshana Grove
Commission Secretary
Postal Regulatory Commission
901 New York Avenue NW, Suite 200
Washington, D.C. 20268-0001

**RE: Docket No. R2010-4R, Rate Adjustment Due to Extraordinary or
Exceptional Circumstances**

Dear Ms. Grove:

The purpose of this letter is to comment on the narrow question remanded to the Postal Regulatory Commission by the U.S. Court of Appeals for the District of Columbia Circuit to determine how close the causal link must be between a proposed rate increase allowed under the Postal Service's exigent rate authority and the exigent circumstance when it is only one of several factors responsible for the Postal Service's revenue shortfall.

As the author of the Postal Accountability and Enhancement Act of 2006 (PAEA), which grants the Postal Service carefully limited authority to file an exigent rate case, I want to emphasize the importance of deciding the remanded issue consistently with the underlying purpose and intent of the law. The history of the exigent rate authority has been well-documented throughout the course of this case, but I want to underscore that the central purpose of the ratemaking provision in PAEA is to incentivize the Postal Service to improve its business model and realize maximum efficiencies and cost savings.

To ensure the exigent rate authority is consistent with congressional intent, the Commission should require the Postal Service to demonstrate a distinct and close nexus between the proposed rate increase under the Postal Service's exigent rate authority and the exigent circumstance. The Commission should disallow above-inflation rate increases under the exigent rate authority, except when the exigent circumstance the Postal Service invokes is the only significant cause of the proposed rate increase.

Purpose of Rate Cap and Exigent Rate Authority

The purpose of establishing an inflation-based rate cap in PAEA was to replace the expensive and time-consuming cost-of-service ratemaking system in favor of a more stable and predictable ratemaking system. Additionally, the cap is intended to induce the Postal Service to improve its business model and, ultimately, its effectiveness.

Acknowledging the need for some degree of flexibility to respond to exigent situations, PAEA includes a narrow safety valve that allows the Postal Service to raise rates above inflation only "due to extraordinary or exceptional circumstances." Congress purposely limited the availability of this mechanism to prevent the Postal Service from using exigent rate increases to circumvent the strict price cap. Moreover, the circumstances under which the Postal Service is authorized to seek rate increases are limited to truly rare, isolated, quantifiable, and distinctive incidents. For example, such circumstances would include terrorist attacks or natural disasters.

Beyond the determination that an extraordinary or exceptional circumstance has occurred, PAEA requires that the proposed rate increase be "due to" the exigent circumstance. Inclusion of the "due to" clause in PAEA was intended to help ensure that the Postal Service could not use this narrow exception to the inflation-based rate cap as a means to merely increase revenue or make up for a financial shortfall.

Congress included another safeguard by requiring that the proposed rate increases be "reasonable and equitable and necessary." This requirement in the law was specifically included to help ensure that the proposed increases are closely and quantifiably related to the circumstances that caused the need for the exigent rate increase.

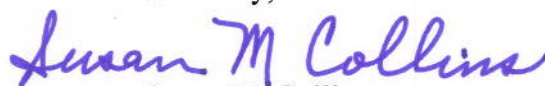
Applying Purpose to Causation Requirement

In determining the standard for the causation requirement, the Commission should rely on Congress's intent behind the underlying purpose of the inflation-based rate cap in PAEA. Again, the fundamental purposes of PAEA were to incentivize the Postal Service to improve its business model and to operate more efficiently.

To make the standard consistent with these goals, the Commission should apply a strict standard of ensuring that the Postal Service's proposed rate increases are quantitatively, demonstrably, and causally linked to the exigent circumstances. Such a standard is necessary to ensure the Postal Service is truly using the exigent rate authority as a means to remedy an exigent circumstance, rather than avoiding maximum efficiency. Further, a strict causation requirement is necessary to preserve the effectiveness of the price cap. Allowing the Postal Service to use above-inflation rate increases to cover losses that are due, in significant part, to avoidable or structural problems would violate the separate requirement that the increases be "reasonable and equitable." It is not reasonable or equitable to make mailers pay above-inflation rate increases to recover shortfalls that the Postal Service has incurred as a result of longstanding, non-exigent causes.

I appreciate your careful review and consideration of these matters.

Sincerely,



Susan M. Collins
Ranking Member

CC: The Honorable Ruth Goldway, PRC Chairman
The Honorable Tony Hammond, PRC Vice Chairman
The Honorable Mark Acton, PRC Commissioner
The Honorable Nanci Langley, PRC Commissioner